



2134
#7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Atty. Docket

MICHAEL A. EPSTEIN

PHA 23,744

Serial No. 09/370,488

Group Art Unit: 2134

Filed: AUGUST 9, 1999

Examiner: PAUL E. CALLAHAN

Title: KEY EXCHANGE VIA A PORTABLE REMOTE CONTROL DEVICE

Commissioner for Patents
Alexandria, VA 22313

**REQUEST UNDER RULE 1.8(b) FOR WITHDRAWAL OF HOLDING
OF ABANDONMENT**

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Sir:

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The Applicant request that the Patent and Trademark Office withdraw the Notice of Abandonment that issued on December 2, 2003 in this patent application for failure to respond to an Office Action dated May 7, 2003. The Notice of Abandonment is attached as Exhibit 1. It is submitted that a response to the Office Action was timely faxed to the Patent and Trademark Office on August 3, 2003.

Specifically, on August 3, 2003, in response to the Office Action dated May 7, 2003, Applicant submitted to the Patent and Trademark Office an Amendment containing a complete response to the May 7, 2003 Office Action (see, Exhibit 2); a certificate of mailing (see, last page of Exhibit 2); and an acknowledgment of fax receipt (see, Exhibit 3).

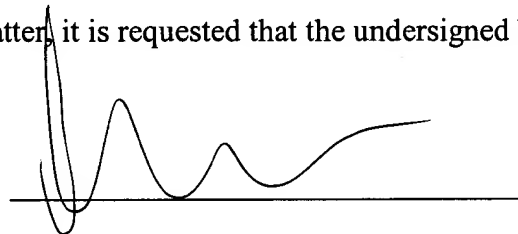
The Certificate of Mailing on the Amendment certifies that the Amendment was properly mailed on August 3, 2003. The mailing date of August 3, 2003 is well within the six months permitted to respond to the Office Action before abandonment of the application. Thus, the proper form and response were timely mailed as permitted by 37 C.F.R. 1.8(a).

The acknowledgment of fax receipt (see, Exhibit 3) bears a Patent and Trademark Office mailroom stamp imprinted on it indicating that the documents were received by the mailroom on August 3, 2003.

It is respectfully requested that the response to the Office Action dated May 7, 2003, that was mailed on August 3, 2003 be considered timely received and that the status of the above-identified application be changed from abandoned to pending.

Accordingly, it is requested that the Notice of Abandonment dated December 2, 2003 be withdrawn, the response mailed on August 3, 2003 be entered, and the status of the above-identified application be changed from abandoned to pending.

If there are any difficulties regarding this matter, it is requested that the undersigned be contacted at the telephone number indicated below.



Daniel J. Piotrowski
Attorney
Reg. No. 42,079

Enclosures: Exh. 1: Copy of December 2, 2003 Notice of Abandonment
Exh. 2: Copy of Amendment mailed August 3, 2003
Exh. 3 : Copy of acknowledgment of fax receipt

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited this date
with the United States Postal Service as first-class mail in an envelope addressed to:
COMMISSIONER FOR PATENTS
Alexandria, VA 22313

On December 17, 2003
By Chris Chapo



UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/370,488	08/09/1999	MICHAEL A. EPSTEIN	PHA-23.744	8165

24737 7590 12/02/2003

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

CALLAHAN, PAUL E

ART UNIT PAPER NUMBER

2134

DATE MAILED: 12/02/2003

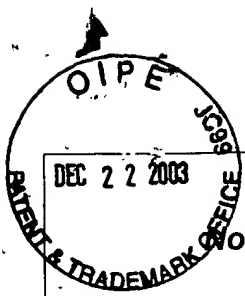
Please find below and/or attached an Office communication concerning this application or proceeding.

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DOCKETED	DATE	INITIAL
COMPUTER	DEC 04 2003	
SECRETARY	12/10/03	EC
ATTORNEY		



Notice of Abandonment	Application No.	Applicant(s)	
	09/370,488	EPSTEIN, MICHAEL A.	
	Examiner	Art Unit	
	Paul E. Callahan	2134	

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

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This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 07 May 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.